

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



July 1, 1986

ALL COUNTY INFORMATION NOTICE NO. 1-58-86

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: GRIMESY v. McMAHON

This is to inform you that on June 24, 1986, the United States District Court for the Northern District of California issued an Order in the case of Grimesy v. McMahon. A copy of the Order is attached. The Order enjoins the application of EAS Section 44-133.7 (Senior Parent Deeming) to members of the class. The class in the Grimesy case consists of 18-year-old parents of AFDC eligible children who do not meet the school attendance requirement of EAS Section 42-101.2, and who live with their own parents.

The estimated annual general fund cost to implement this court order exceeds \$500,000. Therefore, the Budget Act of 1985 (Statutes of 1985, Chapter 111, Item 5180-101-001, Provision 1) requires that the Department of Finance (DOF) must notify the Joint Legislative Budget Committee 30 days before the All County Letter (ACL) with the instructions for implementation of the order is issued. We will issue implementing instructions upon completion of this process.

In order to assist you with your planning for implementing the Grimesy Order, an advanced draft copy of the ACL and Implementing Instructions are attached. At this time, changes to the attached Implementing Instructions are not anticipated. Notices of Action and Compliance Reporting Forms are not yet available, but will be included with the final ACL. As soon as DOF has certified the availability of funds, the Department of Social Services (DSS) will issue the ACL to County Welfare Departments (CWDs).

In the meantime, you should begin identifying cases in which:

1. AFDC was denied, or granted at a reduced amount on or after June 24, 1986, due to the deeming of senior parent income to 18-year-old minor parents not meeting school attendance requirements;
2. AFDC was terminated or reduced on or after June 30, 1986, due to either the deeming of senior parent income, or to the recoupment of overpayments caused by not deeming senior parent income to 18-year-old minor parents not meeting school attendance requirements.

DSS believes that it is in the best interest of CWDs to identify affected cases as quickly as possible in order to minimize problems associated with the implementation of this order.

An additional injunction regarding the retroactive aspects of the Grimesy lawsuit is expected to be served on the Department in the near future. As soon as the specific details of this forthcoming injunction are known, CWDs will be advised. In the meantime, no specific actions in this regard are required.

If you have any questions, please contact Michael O'Brien at (916) 324-2013.



ROBERT A. HOREL
Deputy Director

Attachment

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



ALL-COUNTY LETTER NO.

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: GRIMESY v. McMAHON

REFERENCE: ACIN. NO. _____,
ELIGIBILITY AND ASSISTANCE STANDARDS (EAS) SECTION 44-133.7

On June 24, 1986, the United States District Court for the Northern District of California issued an order in the case of Grimesy v. McMahon. The Order enjoins the Department from enforcing the above-cited regulation. This regulation requires the deeming of senior parent income to 18-year-old minor parents who do not meet the school attendance requirement of Section 42-101.2. It was recommended in ACIN No. _____ that counties identify affected cases.

The purpose of this letter is to provide you with specific instructions and materials necessary to implement the terms of the Grimesy Order. The counties must identify and restore benefits, as otherwise eligible, to all cases in which aid has been reduced, denied, terminated, granted at a reduced amount, or where an overpayment is being recouped, due to the effect of the challenged regulation cited above.

In addition to the detailed implementing instructions, which are the same as those provided you in ACIN No. _____, the following implementation materials are attached:

1. A reproducible copy of the Notices of Action, in English and Spanish.
2. Instructions on completing Notices of Action.
3. Compliance Reporting Forms.

If you have any questions regarding the Implementing Instructions or Notices of Action, please contact Jim Mullany of the AFDC/FS Policy Implementation Bureau at (916) 324-2661.

ROBERT A. HOREL
Deputy Director

Attachment

IMPLEMENTING INSTRUCTIONS
(Grimesey v. McMahon)

1. Cases affected by the Grimesey Order are:

- (a) All families whose AFDC grant has been or would be reduced or terminated on or after June 30, 1986 because of the deeming of senior parent income to the assistance unit of an 18-year-old minor parent who does not meet the school attendance requirement (EAS Section 44-133.7 and 42-101.2);
- (b) All families whose AFDC application has been or would be denied or granted at a reduced amount on or after June 24, 1986 because of the deeming of senior parent income to the assistance unit of an 18-year-old minor parent who does not meet the school attendance requirement (EAS Section 44-133.7 and 42-101.1);
- (c) All families who are having an overpayment recouped by grant adjustment on or after July 1, 1986 or by demand for repayment on or after June 24, 1986, when the overpayment was caused by failure to deem senior parent income to the assistance unit of an 18-year-old minor parent who did not meet the school attendance requirement (EAS Section 44-133.7 and 42-101.1).

2. Counties must, on a prospective basis, immediately cease the deeming of senior parent income to the assistance units of 18-year-old minor parents who do not meet the school attendance requirements as currently set forth in EAS Section 44-133.7 and 42-101.2. Counties can no longer require 18-year-old minor parents not meeting school attendance requirements to submit a CA 73. Therefore, counties must discontinue sending CA 73 forms to cases affected by this lawsuit.

3. For families whose AFDC grant has been reduced or terminated on or after June 30, 1986 and for families whose applications were denied or approved at a reduced amount on or after June 24, 1986, counties must take the following actions immediately:

- (i) Identify affected cases;
- (ii) Review case record to determine eligibility under this court order;
- (iii) Restore benefits to the amount to which they would otherwise have been entitled had senior parent income deeming not occurred (EAS Section 44-133.7 and 42-101.2);
- (iv) Send an appropriate Notice of Action.

4. Counties must immediately cease all recoupment activity for overpayments caused by failing to deem senior parent income to an 18-year-old minor parent who did not meet school attendance requirements. Any amounts recouped by repayment after June 24, 1986 or by grant adjustment after June 30, 1986 must be immediately refunded to the assistance unit.
5. Federal financial participation is available if the case is otherwise federally eligible.
6. The Grimesy Order applies to the Refugee Cash Assistance Program (RCA), the Entrant Cash Assistance Program (ECA), and the Refugee Demonstration Project (RDP).
7. Complete the attached compliance reporting form and submit it to DSS on or before , 1986. Please submit completed form to:

Department of Social Services
AFDC/FS Policy Implementation Bureau
744 P Street, M.S. 16-31
Sacramento, CA 95834
Attention: Jim Mullany

RECEIVED

FILED

UNITED STATES DISTRICT COURT

JUN 20 1986

NORTHERN DISTRICT OF CALIFORNIA

U.S. DISTRICT COURT

NORTHERN DISTRICT OF

CALIFORNIA

WILLIAM L. WHITTAKER

CLERK, U.S. DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

VICTORIA GRIMESY, LISA M. MAYO,
ERIKA SMITH, LUCY RICO,
MICHELLE BOLES and GINA MOSQUEDA,
on their own own behalf and on
behalf of all those similarly
situated,

NO. C. 86 0947 SW

CLASS ACTION

Plaintiffs-Petitioners,

ORDER GRANTING
PERMANENT INJUNCTION

vs.

32

LINDA McMAHON, Director, State
Department of Social Services;
STATE DEPARTMENT OF SOCIAL
SERVICES; JESSE HUFF, Director,
State Department of Finance;
STATE DEPARTMENT OF FINANCE,

Defendants-Respondents.

ENTERED IN CIVIL DOCKET June 25, 1986

LINDA McMAHON, Director, State
Department of Social Services;
DEPARTMENT OF SOCIAL SERVICES;

Third-Party Plaintiffs,

vs.

OTIS R. BOWEN, M.D., as Secretary
of the UNITED STATES DEPARTMENT
OF HEALTH AND HUMAN SERVICES and
the UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Third-Party Defendants.

This matter came on for hearing on June 4, 1986 on
plaintiffs' and third-party plaintiffs' motions for partial
summary judgment and issuance of a permanent injunction. This
court has considered the pleadings in the action, the memoranda
in support of and opposition to the motions, the declarations and

ORDER GRANTING
PERMANENT INJUNCTION

1 exhibits on file and the arguments of counsel. This Court hereby
2 finds that:

3 (1) There are no issues of material fact in dispute. The
4 sole issue before this court is the legal validity of defendants'
5 regulation EAS §44-133.7 and of third-party defendants'
6 regulation 45 C.F.R. §233.20(a)(3)(xviii).

7 (2) Defendants' regulation EAS §44-133.7 and third-party
8 defendants' regulation 45 C.F.R. §233.20(a)(3)(xviii) are in
9 conflict with Social Security Act (42 U.S.C. §§602(a)(39) and
10 606(a)(2)) and are therefore invalid.

11 Based on the foregoing findings, plaintiffs' and third-party
12 plaintiffs' motions for partial summary judgment and issuance of
13 permanent injunction are HEREBY GRANTED.

14 IT IS HEREBY ORDERED that defendants, their agents,
15 officers, employees and representatives, and all persons acting
16 in concert or participating with them, including employees of
17 County Welfare Departments, are permanently enjoined from:

18 (a) applying EAS §44-133.7 or 45 C.F.R.
19 §233.20(a)(3)(xviii) to reduce, terminate or deny AFDC
20 benefits to plaintiffs and members of their class; and

21 (b) recovering any overpayment assessed because a
22 county failed to apply EAS §44-133.7 or 45 C.F.R.
23 §233.20(a)(3)(xviii).

24 IT IS FURTHER ORDERED that in order to implement the above
25 injunction,

26 (a) defendant Department of Social Services ("DSS") shall,

1 as soon as possible and in no event later than 35 days following
2 the receipt of this order, instruct (by way of an All-County
3 Letter) all County Welfare Departments to:

4 (1) cease applying EAS §44-133.7 to reduce, terminate
5 or deny AFDC benefits to plaintiffs and members of their
6 class;

7 (2) stop recovering any overpayment assessed because a
8 county failed to apply EAS §44-133.7.

9 The All-County Letter shall attach a copy of this Order and
10 shall include sufficient instructions to insure that its
11 provisions are complied with by the counties. The All-County
12 Letter shall also instruct the counties to send a written report
13 to DSS within 45 days following issuance of the All-County
14 Letter, indicating what steps they have taken to comply with the
15 All-County Letter.

16 (b) Upon receipt by defendant Department of Finance
17 ("DOF") of the All-County Letter proposed by DSS, DOF shall
18 request the various legislative committees referred to in
19 Provision 1 of Item 5180-101-001 of the Budget Act to waive
20 or shorten the 30-day waiting period set forth in said
21 provision.

22 (c) Within 15 days following receipt of all the county
23 reports referred to in subparagraph (a) above, the DSS shall
24 serve copies of said reports upon the Legal Aid Society of
25 San Mateo County.

26 //

1 IT IS FURTHER ORDERED that third-party defendant is
2 permanently enjoined from initiating or taking any action
3 whatsoever against defendants by way of compliance proceedings,
4 audit disallowances or otherwise because of the defendants'
5 compliance with the above injunction, which prohibits defendants
6 from complying with 45 C.F.R. §233.20(a)(3)(xviii).

7 IT IS FURTHER ORDERED that counsel for all parties shall
8 confer concerning provision of additional
9 retroactive benefits to plaintiff class members. Upon agreement
10 on the terms of such an order, it may be presented to the Court
11 for approval. In the event the parties are unable to reach
12 agreement on retroactive relief, each party may
13 submit to this Court its proposed order on July 23, and this
14 Court will take the matter under submission.

15 IT IS FURTHER ORDERED that plaintiffs are prevailing parties
16 for purposes of awarding attorney's fees and costs. The Court
17 retains jurisdiction over the issue of the amount, if any,
18 plaintiffs may be awarded for attorney's fees and costs of suit

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

1 herein and the issue of against which party or parties the fees
2 and costs should be awarded.

3 DATED: 24 JUN 1986

4
5 *Dorcas Williams*
6 UNITED STATES DISTRICT JUDGE

7 APPROVED AS TO FORM:

8
9
10 DATED: 6-20-86

11 *Tricia Berke Vinson*
12 TRICIA BERKE VINSON
13 Legal Aid Society
14 of San Mateo County

15 DATED: 6-20-86

16 *George C. Stoll*
17 G. CHRISTOPHER STOLL
18 Assistant U. S. Attorney

19 DATED: 6-20-86

20 *John J. Klee, Jr.*
21 JOHN J. KLEE, JR.
22 Deputy Attorney General